

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION**

CRIMINAL CASE NO. 1:99cr52-19

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	<u>ORDER</u>
)	
LONNIE EDGAR PEELER, JR.,)	
)	
Defendant.)	
<hr style="width:50%; margin-left:0"/>)	

THIS MATTER is before the Court on the Defendant's motion for writ of *habeas corpus* pursuant to 28 U.S.C. § 1651 [Doc. 505].

The procedural history of this case has been thoroughly summarized in the prior Orders of this Court and is incorporated herein. [See Docs. 482, 497, 503]. Due to the retirement of the Honorable Lacy H. Thornburg, United States District Judge, this matter was reassigned to the undersigned on November 25, 2009.

In his present motion, the Defendant seeks reconsideration by a different judge of Judge Thornburg's prior rulings. Having raised the same issues as were asserted in his prior motions, the Defendant's motion is

denied for the same reasons as set forth in Judge Thornburg's Orders entered May 29, 2008 and December 12, 2008. [See Docs. 497, 503].

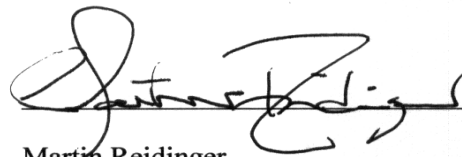
Previously, Judge Thornburg clearly warned the Defendant herein that future frivolous filings would result in imposition of a pre-filing review system for summary dismissal of pleadings not made in good faith and lacking substance. [Doc. 503 at 8-9]. That warning already having been given, a similar warning is called for in this case, to the effect that prisoners do not have an absolute and unconditional right of access to the courts in order to prosecute frivolous, malicious, abusive or vexatious motions. See, e.g., In re Vincent, 105 F.3d 943, 945 (4th Cir. 1997); see also Tinker v. Hanks, 255 F.3d 444, 445 (7th Cir. 2001); Demos v. Keating, 33 F. App'x 918, 920 (10th Cir. 2002). The Defendant is again warned that future frivolous filings will result in the imposition of a pre-filing review system. See Vestal v. Clinton, 106 F.3d 553, 555 (4th Cir. 1997). If such a system is placed in effect, the Defendant is cautioned that pleadings presented to the Court which are not made in good faith and which do not contain substance will be summarily dismissed as frivolous, see Foley v. Fix, 106 F.3d 556, 558 (4th Cir. 1997), and that if such writings persist, the pre-filing

system may be modified to include an injunction from filings. See, e.g., In re Martin-Trigona, 737 F.2d 1254, 1262 (2d Cir. 1984).

For the foregoing reasons, **IT IS, THEREFORE, ORDERED** that the Defendant's motion for writ of *habeas corpus* pursuant to 28 U.S.C. § 1651 [Doc. 505] is **DENIED**.

IT IS SO ORDERED.

Signed: December 30, 2009


Martin Reidinger
United States District Judge

